

1-1	Human Rights	Part 1 of 4
Authorizing Utah Code: 62a-5-103	Rule: R539: 2-1 and 2-3	Rights and Protections
Approved: 12/11/97	Rule Effective:	Printed: 4/00
Form(s): None	Guideline(s): None	

POLICY

Persons with disabilities have the same rights that are constitutionally afforded to all citizens (P.L.101-336, The Americans with Disabilities Act). Human rights will only be suspended through due process. To protect the human rights of **Persons** who receive supports, all **Persons** must have access to a **Human Rights Committee**. The rights of each **Person** shall include the following:

- a. the right to be treated at all times with courtesy, respect and dignity;
- b. the right to be treated equally as a citizen under the law, including the guarantees of privileges afforded under the Constitution of the United States;
- c. the right to receive support in an appropriate, safe, sanitary environment that complies with local, state, and federal standards;
- d. the right to nutritious food, and support for health and well being;
- e. the right to practice the religion of choice or to abstain from such practice;
- f. the right to timely access to appropriate medical and dental treatment including medication;
- g. the right to access available supportive services including, occupational therapy, physical therapy, speech therapy, behavior modification and psychology services, and other necessary services as approved by the payer;
- h. the right to receive appropriate supports in the most inclusive and least intrusive manner;
- i. the right to personal privacy;
- j. the right to communicate freely with others in any reasonable manner, including social interactions with members of either sex;
- k. the right to pursue economic opportunities;
- l. the right to be free from physical, emotional, psychological, or sexual abuse, neglect and exploitation;
- m. the right to participate in all decisions affecting the person's life;
- n. the right to present grievances;
- o. the right to choose among available options;
- p. the right to be free from inappropriate chemical or physical restraint;
- q. the right to access personal money and possessions;
- r. any additional rights outlined in the contracting agency's policy;
- s. the right to have records kept confidential under the guidelines in **Utah Code Annotated** 63-2-201-206; and,
- t. the right to disagree with **Support Coordinators** and provider staff and to choose who the **Support Coordinator** or **Provider** of services will be according to the options available in the area where the **Person** resides.

PROCEDURES

1. A written description of the rights and responsibilities of each **Person** shall be provided and explained by the **Support Coordinator** and **Provider** at the admission meeting.
2. The Human Rights policy shall be reviewed with each **Person** annually during the **Person's**

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planning or review of services meeting by the **Support Coordinator** and **Provider** representative.

3. The **Provider** shall ensure that grievance procedures are communicated to **Persons** at the annual planning meeting.
4. Each **Person** has the right to counsel. If the **Person** does not have counsel, the **Provider** will insure that the **Person** is referred to the Disability Law Center. The Disability Law Center is designated by the Governor to provide protection and advocacy services as enumerated in Public Law 100-146, Title II, Section 113, Developmental Disabilities and Bill of Rights Act.
5. To protect human rights, all **Persons** shall have access to a **Human Rights Committee**.
 - A. Any interested party may request that the rights of a **Person** be reviewed by a Human Rights Committee. It is the responsibility of the **Provider Agency** to ensure that the **Persons** they serve have access to a **Human Rights Committee**.
 - B. All **Provider Agencies** delivering direct services or supports to **Persons** are responsible to insure that an Agency Human Rights Plan is developed and approved by the **Division's Human Rights Council**. New **Provider Agencies** are required to have an approved plan in place within the first contract year. Vendors who provide only limited professional consultation, durable goods, or payroll services are not required to have a plan. Each Committee's "PLAN" must identify:
 - i. the appropriate level of informed consent, due process and documentation necessary to limit or deny each right identified by the **Division** and **Provider Agency**;
 - ii. operating procedures for committee membership, voting and recording meeting minutes. A **Provider Agency** may indicate in the Agency Human Rights Plan that **Persons** served shall have access to the **Provider's** Human Rights Committee or as an alternative access to another **Provider's** Human Rights Committee. When the Provider will be using another **Provider's** Committee a letter of agreement signed by both agencies must be submitted with the agency's Human Rights Plan. The letter should detail the responsibilities and authority of both parties related to the decisions rendered by the Human Rights Committee;
 - iii. what, how and when safeguards are developed to protect rights;
 - iv. the schedule and scope for periodic review of organizational practices, policies and staff behavior that may pose potential risk for denial of rights;
 - v. additional rights guaranteed by the **Provider**;
 - vi. the schedule and procedure for review of rights waived through informed consent. This includes (at a minimum) health and safety issues, psychotropic medications and maladaptive behavioral interventions;
 - vii. interventions requiring outside independent review; and

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viii. how staff and **Persons** will be trained concerning the responsibilities and limits of each type of guardianship and the procedure and type of review to be used to protect the **Person's** decision-making rights.

C. If a **Person-Centered Plan** or interaction with **Provider** staff or others limits or denies in whole or part any right identified by the **Provider** or **Division**, the plan or interaction must be reviewed by the **Human Rights Committee**. Plans that may violate a **Person's** rights shall be reviewed prior to implementation.

D. **Human Rights Committee** members are responsible to:

- i. determine if the proposed procedure is necessary to protect the health, safety and/or life of the **Person** or others;
- ii. weigh the potential risk and benefits of the decision thoroughly;
- iii. ensure a method is in place to document, monitor and, if appropriate, cease the procedure and ensure the method is communicated to staff; and
- iv. render a decision.

E. Any interested party may appeal a **Human Rights Committee** decision by sending a request for appeal to the **Human Rights Council** c/o DSPD, 120 North 200 West #411, SLC UT 84103. The Council makes a decision whether there will be a review, and if applicable, the time, place and list of materials to be forwarded for the review and notifies the **Person/Representative**, **Provider** and **Support Coordinator** concerning the decision within 8 working days.

6. To enhance the quality of life for **Persons**, the Division **Human Rights Council** shall offer support, evaluation and training to **Human Rights Committees**, **Provider Agencies** and to the **Division**.

A. The purpose of the Council is to provide the necessary supports to provider **Human Rights Committees** and the **Division** to facilitate the protection of rights for **Persons** receiving **Division** funding. Council members will:

- i. approve each **Provider's** "Human Rights Plan;"
- ii. hear appeals of decisions made by **Human Rights Committees** and render decisions through a majority vote;
- iii. send a notice of the decision to the **Person/Representative**, the individual making the appeal, the **Provider** and the **Support Coordinator** within 5 working days of meeting after a hearing has been held;
- iv. respond to questions and help find ways to resolve problems by developing and implementing supports, providing expert opinions, advice and training.
- v. meet at least quarterly;
- vi. establish standards concerning how the Council will provide support to committees;

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- vii. identify and make available experts to provide technical assistance to Committees. (This technical assistance is not intended for assessment or intervention on behalf of a person). Requests for technical assistance shall be sent to the **Human Rights Council**, DSPD, 120 North 200 West #411, SLC UT 84103;
 - viii. provide feedback and/or advice to the **Division** on policies and procedures related to human rights issues;
 - ix. annually review and report on human rights issues for **Persons** receiving supports;
 - x. attend a meeting of each committee at least once annually and report committee successes and problems to other Council members and the **Division Director**;
 - xi. review general trends of rights outcomes from quality enhancement interviews;
 - xii. review committee minutes for compliance to Human Rights policy;
 - xiii. recommend to **Division** leadership if a **Person** should be moved to a new **Provider** due to unresolved safety issues within the period of time allotted by the Council;
 - xiv. complete other business authorized by the division director related to the human rights of **Persons** with disabilities; and
 - xv. recommend policy concerning human subject research, experimental study and intrusive behavioral interventions.
- B. The Council must include voting members from across the state. A majority of Council members shall be **Persons** with disabilities, their family members or advocates. Other members may include:
- i. **Division** representative(s) from the **State Office** appointed by the **Division Director**;
 - ii. **Region** representative(s) appointed by a **Region Director**;
 - iii. **Provider** representatives including members of **Human Rights Committees** appointed by service **Providers**;
 - iv. Expert(s) in human rights appointed by the **Division Director**; and
 - v. Citizen(s) selected from the community by the **Division Director**.
- C. Council members shall sign a statement agreeing to keep all information confidential.
- D. When requested, decisions of the Council may be reviewed and overruled by the **Division Director** or through a **Department** appeals process.